

Translation

PATENT COOPERATION TREATY

PCT

INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

(Chapter II of the Patent Cooperation Treaty)

(PCT Article 36 and Rule 70)

Applicant's or agent's file reference K-47656-19	FOR FURTHER ACTION	See Form PCT/IPEA/416
International application No. PCT/EP2004/007457	International filing date (<i>day/month/year</i>) 07.07.2004	Priority date (<i>day/month/year</i>) 07.07.2003
International Patent Classification (IPC) or national classification and IPC B29B17/00, E04C2/10, E04C2/20, D21 D1/30, B02C7/00, D21 B1/14, B27N1/00, B27N3/00		
Applicant JUPITER GMBH ET AL.		

1.	This report is the international preliminary examination report, established by this International Preliminary Examining Authority under Article 35 and transmitted to the applicant according to Article 36.	
2.	This REPORT consists of a total of <u>7</u> sheets, including this cover sheet.	
3.	This report is also accompanied by ANNEXES, comprising:	
a.	<input checked="" type="checkbox"/> (sent to the applicant and to the International Bureau) a total of <u>3</u> sheets, as follows:	
	<input type="checkbox"/>	sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications authorized by this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions).
	<input type="checkbox"/>	sheets which supersede earlier sheets, but which this Authority considers contain an amendment that goes beyond the disclosure in the international application as filed, as indicated in item 4 of Box No. I and the Supplemental Box.
b.	<input type="checkbox"/>	(sent to the International Bureau only) a total of _____, containing a sequence listing and/or tables related thereto, in computer readable form only, as indicated in the Supplemental Box Relating to Sequence Listing (see Section 802 of the Administrative Instructions).
4.	This report contains indications relating to the following items:	
	<input checked="" type="checkbox"/> Box No. I	Basis of the report
	<input type="checkbox"/> Box No. II	Priority
	<input type="checkbox"/> Box No. III	Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
	<input type="checkbox"/> Box No. IV	Lack of unity of invention
	<input checked="" type="checkbox"/> Box No. V	Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
	<input checked="" type="checkbox"/> Box No. VI	Certain documents cited
	<input type="checkbox"/> Box No. VII	Certain defects in the international application
	<input type="checkbox"/> Box No. VIII	Certain observations on the international application

Date of submission of the demand	Date of completion of this report
Name and mailing address of the IPEA/EP	Authorized officer
Facsimile No.	Telephone No.

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Box No. I Basis of the report

1. With regard to the language, this report is based on the international application in the language in which it was filed, unless otherwise indicated under this item.
- ☐ This report is based on translations from the original language into the following language _____ which is the language of a translation furnished for the purposes of:
- ☐ international search (Rule 12.3 and 23.1(b))
- ☐ publication of the international application (Rule 12.4)
- ☐ international preliminary examination (Rule 55.2 and/or 55.3)
2. With regard to the elements of the international application, this report is based on (*replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report*):
- ☐ the international application as originally filed/furnished
- ☒ the description:
- pages 1, 2, 4-12 as originally filed/furnished
- pages* 3, 3a received by this Authority on 03.05.2005 with letter of 29.04.2005
- pages* _____ received by this Authority on _____
- ☒ the claims:
- nos. 6-21 as originally filed/furnished
- nos.* _____ as amended (together with any statement) under Article 19
- nos.* 1-5 received by this Authority on 03.05.2005 with letter of 29.04.2005
- nos.* _____ received by this Authority on _____
- ☐ the drawings:
- sheets _____ as originally filed/furnished
- sheets* _____ received by this Authority on _____
- sheets* _____ received by this Authority on _____
- ☐ a sequence listing and/or any related table(s) – see Supplemental Box Relating to Sequence Listing.
3. ☐ The amendments have resulted in the cancellation of:
- ☐ the description, pages _____
- ☐ the claims, nos. _____
- ☐ the drawings, sheets/figs _____
- ☐ the sequence listing (*specify*): _____
- ☐ any table(s) related to sequence listing (*specify*): _____
4. ☐ This report has been established as if (some of) the amendments annexed to this report and listed below had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).
- ☐ the description, pages _____
- ☐ the claims, nos. _____
- ☐ the drawings, sheets/figs _____
- ☐ the sequence listing (*specify*): _____
- ☐ any table(s) related to sequence listing (*specify*): _____

* If item 4 applies, some or all of those sheets may be marked "superseded."

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Box No. V	Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement		
1. Statement			
Novelty (N)	Claims	1-21	YES
	Claims		NO
Inventive step (IS)	Claims		YES
	Claims	1-21	NO
Industrial applicability (IA)	Claims	1-21	YES
	Claims		NO
2. Citations and explanations (Rule 70.7)			
1	This report makes reference to the following documents:		
	D1: US 5 154 361 A (WILLOUGHBY MICHAEL D) 13 October 1992 (1992-10-13)		
	D2: EP 0 588 023 A (EVD GMBH; DIEZ ENTWICK VERBUNDMAT GMBH (DE)) 23 March 1994 (1994-03-23)		
	D3: US 5 958 554 A (ADDIE BENJAMIN A) 28 September 1999 (1999-09-28)		
2	INDEPENDENT CLAIM 1		
2.1	The present application does not meet the requirements of PCT Article 33(1) because the subject matter of claim 1 does not involve an inventive step within the meaning of PCT Article 33(3).		
	D1 discloses a process in which thermoplastics and fibrous material are comminuted together in a water-cooled disc refiner (see the cited passages in D1, columns 1-3).		

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citations and explanations supporting such statement

The material obtained in this way is then
processed into boards (see D1, example 12).

Thus, D1 discloses a process according to the
preamble of claim 1.

- 2.2 The characterizing part of claim 1 states that the
particle size of the plastics particles and/or
fibres approximately corresponds to the particle
size of the particles or fibres of the first
group.

D1 states that the plastics parts and the other
waste materials are comminuted together to give
"fine sized particles" (column 3, lines 27-28).
Thus, the materials described in D1 are
approximately uniform in size, namely, fine.

- 2.3 The characterizing part of claim 1 further states
that an agglomerate of pure or mixed plastics is
used.

D1 does not specify in detail the precise form in
which the plastics are present.

The problem addressed by the present invention may
therefore be considered that of selecting suitable
plastics materials.

The solution to this problem proposed in claim 1
of the present application, namely, to use
agglomerates, cannot be considered to involve an

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inventive step, since providing pure or mixed plastics as agglomerates for possible further processing is generally known to those skilled in the art (see, for example, page 2 of the present application).

A person skilled in the art would consider the use of such commercially available agglomerates, whether or not of recycled material, in the process according to D1 to be a routine procedure.

Therefore, the solution proposed in claim 1 cannot be considered to involve an inventive step (PCT Article 33(3)).

3 DEPENDENT CLAIMS 2-19 AND USE CLAIMS 20-21

Claims 2-21 do not contain any features which, in combination with the features of any claim to which they refer back, meet the PCT requirements for inventive step.

These claims concern features which are either known directly from D1-D3 or familiar to a person skilled in the art.

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Box No. VI

Certain documents cited

1. Certain published documents (Rule 70.10)

Application No.
Patent No.Publication date
(day/month/year)Filing date
(day/month/year)Priority date (valid claim)
(day/month/year)

2. Non-written disclosures (Rule 70.9)

Kind of non-written disclosure

Date of non-written disclosure
(day/month/year)Date of written disclosure
referring to non-written disclosure
(day/month/year)

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Supplemental Box

In case the space in any of the preceding boxes is not sufficient.

Continuation of:

Box VI

Reference is made to DE-A-10326181 and WO2004/108374.

WO2004/108374 claims priority from DE-A-10326181, which was filed on 6 June 2004.

Paragraphs 2, 10, 14, 15, 17, 18 and 21 in combination with claim 15 appear to be relevant.

The present application has the priority of 7 July 2004.